

## **II. Remarks**

### **A. Status of the claims**

Claims 1-11 are currently pending. Claims 1 and 3-5 have been amended without prejudice. Support for the amendments can be found in the specification as originally filed, e.g., in paragraphs [0077] and [0081]. Applicants respectfully submit that no new matter has been added by virtue of this amendment.

### **B. Claim Rejections Under 35 U.S.C. § 101**

#### **1. Conditional Terminology**

In the Office Action, claims 1-11 were rejected under 35 U.S.C. § 101, because the Examiner alleged that the invention was “not supported by either a concretely asserted utility or a well established utility”, specifically because the claims contained conditional “if” terminology.

In response, the claims have been amended without prejudice to remove the conditional “if” terminology, and respectfully submit that the claims, as currently presented, establish a concrete utility.

#### **2. Statutory Subject Matter**

The Examiner further alleged that claims 1-11 are not directed to statutory subject matter. In making the rejection, the Examiner stated that “claim 1 does not have a clear statement showing that only an apparatus is performing the step such that human intervention is not possible”.

This rejection is respectfully traversed. Applicants respectfully point out that independent claim 1, in addition to the “client workstation” limitation, includes the limitation of “automatically selecting, by a facilitation server, one of the plurality of exchanges for execution of the client order based on the one or more contracts in the order and *based on electronically stored routing rules...*”. Applicants submit that “electronically stored routing rules” is a clear statement that shows only an apparatus is performing this particular step, and that human intervention is not possible in this step.

Accordingly, Applicants respectfully request that the rejections under 35 U.S.C. § 101 be removed.

**C. Claim Rejection Under 35 U.S.C. § 112**

In the Office Action, claims 1-11 were rejected under 35 U.S.C. § 112, first paragraph for lack of enablement, and second paragraph for indefiniteness, for the reasons stated in the rejections under 35 U.S.C. § 101, discussed *supra*.

This rejection is traversed. Applicants submit that in view of the amendments made with respect to the conditional terminology, and the arguments presented with respect to the clear presence of statutory subject matter, this rejection has been obviated.

Accordingly, Applicants respectfully request that the rejections under 35 U.S.C. § 112, first and second paragraphs, be removed.

**D. Claim Rejections Under 35 U.S.C. § 103(a)**

In the Office Action, claims 1-11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,297,031 to Gutterman et al. in view of Applicants' Admitted Prior Art (AAPA) and U.S Patent No. 5,774,877 to Patterson, Jr. et al.

This rejection is respectfully traversed. Applicants submit that the combined teachings of Gutterman et al., AAPA and Patterson, Jr. et al. fail to render obvious the methods for providing a computerized transaction interface system to a plurality of exchanges, as presently claimed. The Examiner is reminded that pursuant to MPEP, 8<sup>th</sup> Ed., 7<sup>th</sup> Rev. § 2142, to establish a prima facie case of obviousness, and thus sustain the rejection of a claim under 35 U.S.C. § 103(a), there must be a clear articulation of the reasons why Applicants' claimed invention would have been obvious. *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398 (2007). The Supreme Court in KSR has further noted that an analysis supporting a rejection under 35 U.S.C. § 103(a) should be made explicit. Therefore, it is clear that an obviousness rejection "cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 F.3d 977 (Fed. Cir. 2006). Moreover, "[t]o support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." MPEP, 8<sup>th</sup> Ed. 7<sup>th</sup> Rev. § 706.02(j).

Specifically, Applicants submit that the combination of Gutterman et al., AAPA and Patterson, Jr. et al. fail to render obvious the limitation of automatically selecting one of the plurality of exchanges for execution of the client order based on electronically stored routing rules, wherein the electronically stored routing rules translate messages between a messaging layer and a message protocol, as currently claimed.

In making the rejection, the Examiner alleges that Gutterman et al. teaches the limitation of electronically stored routing rules at col. 6, lines 33-35. As pointed out in Applicants' previous response, col. 6, lines 33-35 of Gutterman et al. recite how "[t]he broker workstation in accordance with the [Gutterman et al.] invention is an electronic replication of the broker's management of the orders in his deck", which Applicants submit does not obviate electronically stored routing rules. However, in order to further facilitate prosecution of the application, the claims have been amended to recite that the electronically stored routing rules "translate messages between a messaging layer and a message protocol". Applicants submit that Gutterman et al. not only fail to describe electronically stored routing rules, they also fail to describe that the routing rules translate messages between a messaging layer and a message protocol, as presently claimed.

Further Applicants point out that AAPA is cited solely for "protecting a position", and Patterson, Jr. et al. is cited solely for "cancel/replace messages" and therefore fail to cure the deficiencies of Gutterman et al.

Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. § 103(a) be removed.

**III. Conclusion**

In view of the amendments made and arguments presented, it is believed that all claims are in condition for allowance. If the Examiner believes that issues may be resolved by a telephone interview, the Examiner is invited to telephone the undersigned at (973)597-6162. The undersigned also may be contacted via e-mail at [epietrowski@lowenstein.com](mailto:epietrowski@lowenstein.com). All correspondence should be directed to our address listed below.

**AUTHORIZATION**

The Commissioner is hereby authorized to charge any fees that may be required, or credit any overpayment, to Deposit Account No. 50-1358.

Respectfully submitted,  
Lowenstein Sandler PC

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